

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 31, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of August 31, 2004, was called to order by Mayor Hansen at 7:03 a.m.

Present: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Absent: Council Members – Land

Also Present: Interim City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

CITY COUNCIL CALENDAR UPDATE

City Clerk Blackston reviewed the weekly calendar (filed).

NOTE: The following items were discussed and acted upon out of order.

C. CLOSED SESSION

At 7:03 a.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

- C-1 Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- C-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- C-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- C-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- C-5 Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- C-6 Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- C-7 Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM

The Closed Session adjourned at 7:50 a.m.

D. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:50 a.m., Mayor Hansen reconvened the Special City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item G1, on a vote of 3-1 with Council Member Howard dissenting, Council gave direction to amend the complaint to drop the nuisance causes of action and to identify the five source areas that are defined by the State Department of Toxic Substance Control (DTSC) and the Regional Water Quality Control Board in their letter to Judge Damrell in February 2004.

In regard to Items C-2 through C-7, no reportable action was taken in closed session.

B. REGULAR CALENDAR

- B-1 "Discussion and possible action regarding setting compensation range for City Manager position"

Kris Kristensen, Executive Recruiter with CPS Executive Search, reminded Council that the annual salary the former city manager was receiving at the time of his departure was \$128,500. In addition, he received essentially the same benefits as Executive Management. Mr. Kristensen stated that his firm typically advertises salaries of positions as open and negotiable depending upon qualifications of the candidate, rather than setting a particular salary amount. The purpose of this item is for Council to discuss what compensation package it is open to considering for the City's next city manager. Mr. Kristensen distributed and reviewed a salary survey for the position of city manager (filed). He suggested that Council consider a range of \$140,000 to \$150,000 for well-qualified candidates.

Mayor Hansen agreed to a salary range between \$128,500 and \$150,000.

Mayor Pro Tempore Beckman recommended that the salary range be \$128,500 to \$211,000 (the highest amount on the salary survey) based on qualifications.

Council Member Howard pointed out that Lodi had a city manager with many years of experience that was being paid \$128,500. She suggested that if it is Council's desire to start the low end of the salary range at that amount, then a strong emphasis should be placed on economic development. She noted that candidates will be hearing about Lodi's financial challenges and the fact that expenses now outweigh revenue, in light of which some might find it disturbing that a newly hired city manager's salary would begin at a higher amount than the former manager was being paid. Ms. Howard recommended a range of \$112,000 to \$130,000.

Interim City Manager Keeter suggested that Council consider internal benchmarking as it relates to the organization. She pointed out that \$112,000 is less than the salary for deputy city manager.

In answer to Council Member Hitchcock, Mr. Kristensen referenced the salary survey and reported on the approximate tenures of the following city managers:

Chico – ten years	Roseville – 2003
Clovis – relatively new	Stockton – 2000
Davis – 1999	Tracy – ten years
Fairfield – 1997	Turlock – over 15 years
Merced – over 15 years	Vacaville – 2003
Manteca – over 15 years	Visalia – ten years
Modesto – 1994	Woodland – four years
Redding – long tenured	

Council Member Hitchcock stated that she would agree to a salary of \$150,000 or higher for the right person.

Mr. Kristensen stated that the new city manager should bring skills necessary to save money and to generate new revenue, which would more than offset any increase in salary costs.

Council consensus was that the benefits package also be negotiable.

MOTION / VOTE:

There was no action taken on this matter.

- B-2 "Approve additional technical services with Treadwell & Rollo, Inc., and appropriate funds (\$399,000)"

Public Works Director Prima asked Council for additional funding for the technical services of Treadwell & Rollo, the City's consultants for the PCE/TCE contamination. He stated that staff does not plan to issue all the task orders immediately; rather, the intent is to refine and break them into subcomponents. He pointed out that the staff report incorrectly states that \$100,000 in contingency should last for three to four months. Recent communication from Treadwell & Rollo indicates that \$60,000 to \$75,000 per month for "the next few months" would be needed to provide technical review and comments on work being done by others and in support of the City's legal team.

MOTION:

Council Member Howard made a motion, Beckman second, to adopt Resolution No. 2004-168 approving additional technical services with Treadwell & Rollo, Inc., and appropriate funds in the amount of \$339,000.

DISCUSSION:

In reply to Council Member Hitchcock, Mr. Prima explained that discussions are now taking place regarding five sub areas of the Lodi site. In a couple of those sites, the City is not conducting any technical work itself, but is reviewing the work of other parties to determine what it means. In some cases, comments are made to the Regional Board as to what work is being proposed and who is responsible to pay for it.

City Attorney Schwabauer reported that in the southern plume area (the Randtron, Holtz, Vanderlans site) a clean up plan has been developed as well as additional work for delineation purposes. Phil Smith of Treadwell & Rollo is reviewing that work to determine whether enough characterization was done and if the proposed remedy is sufficient. He is doing the same type of review in the Busy Bee site. Similar work is being done in the western plume (the Lucky site) so that Mr. Smith can give a presentation to all the defendants at the mediation session scheduled for October regarding evidence of contamination, what needs to be done to further delineate it, and a cost estimate. Mr. Schwabauer stated that, hopefully, it will be done with an eye toward being able to show to all the defendants in the western plume that the cost of defense is more than the cost of the cleanup. In this way, he stated that, perhaps everyone can agree, as was done in the northern plume (the Lustre-Cal site), to come together and put their money in a "single pot" to pay for beginning to study the cleanup and ultimately conducting the cleanup rather than fighting it. Mr. Smith is assessing what the state of the evidence is in the western area himself as the first party to the scene; whereas, in the Busy Bee and southern plume area he is the second or third party to the scene and is assessing the work done by others. Mr. Schwabauer explained that in the western plume the City is taking the lead because it is the first party there who is willing to do it. In other areas, Treadwell & Rollo is reviewing the work that others are doing and determining whether or not it makes sense for the City to join in with them and begin the cleanup. In the central plume, the City is assessing the remedial investigation feasibility (RIF) study that was prepared by Guild to determine whether or not it is sufficient and is adding data that the Regional Board has asked for. Treadwell & Rollo has also been conducting cone penetration test (CPT) drillings to assess the lateral extent of the plume and have done indoor air testing, which will be added into the RIF study. In the northern plume there is a joint defense cost sharing agreement in which eight or nine parties are working together. A single consultant was hired to do characterization work and develop a cost estimate to clean up the northern plume. Treadwell & Rollo is overseeing the work of the consultant to make sure it is working consistent with the City's desires and goals. Mr. Schwabauer explained that the work being done by Treadwell & Rollo is to assess the cleanup, not to assess primary liability or trying to construct a theory to say who is responsible for it. He asserted that the money the City is paying to Treadwell & Rollo is going to find out how to clean up the contamination.

Mayor Hansen noted that there is a lot of confusion by the public on this issue. Many people have stated that the City should just clean up the contamination; however, if that were done the City would lose millions of dollars in insurance funds from the people who put the contaminants in the ground to begin with. He believed that the money previously spent for technical work was misappropriated, as it was done to support litigation rather than toward cleanup efforts. In order to protect the public's interest, the City must ensure that the site is characterized correctly, that the contaminants are identified, and that the cleanup procedure is sufficient so that in the long term Lodi's water is going to be safe and clean to drink.

VOTE:

The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Land

E. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:33 a.m.

ATTEST:

Susan J. Blackston
City Clerk